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Attorney for: ADONIS TORRES

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	) No. CR 20-0480-06 WHA
	)
Plaintiff,	) <b>ADONIS TORRES'</b>
	) <b>SUPPLEMENTAL</b>
	) <b>SENTENCING MEMORANDUM</b>
	)
vs.	) Date: March 1, 2022
	) Time: 2:00 p.m.
ADONIS TORRES	) Courtroom: The Honorable
Defendant.	) Judge Alsup

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The defense sentencing memorandum (dkt. 192), p.2, pointed to a "significant error" in the Justification section of the PSR. Regrettably, the significant error was instead that of below signed counsel. The PSR was correct about the prior convictions. The three that were overlooked by counsel weren't counted on Mr. Torres' CH score because they were timed out from consideration under the Guidelines.

The first, at PSR paragraph 38, occurred more than 16 years ago, when Mr. Torres was 18 years old. It involved \$20 of cocaine. The

1 second (paragraph 39) occurred a year later and was charged as a  
2 misdemeanor, involving possession for sale of cocaine base. The  
3 third (paragraph 40) was an illegal entry conviction in 2010.

4 In view of these timed out convictions - and despite their  
5 nature - the argument that Mr. Torres' CH 2 was overstated is  
6 withdrawn.  
7

8 The government's sentencing memorandum concentrates  
9 significantly on arguing against a minor role adjustment for Mr.  
10 Torres. However, although we asserted the minor role during plea  
11 negotiations and the PSR process, we are not now arguing for that  
12 two-point adjustment and didn't do so in the defense sentence  
13 memorandum. We acknowledge that Mr. Torres was not "substantially  
14 less culpable" than his codefendants. However, he was less  
15 culpable.  
16

17 The government concedes that Mr. "Torres did not participate in  
18 higher-level planning or organizing of the overall conspiracy, and  
19 he did not exercise decision-making authority over others." *Dkt.*  
20 193 at 4. However, the government points out that he knew the  
21 general scope and structure of the organization, "including that  
22 Leydis was one of the main drug sources." Of course, he did.  
23 Leydis was his more culpable girlfriend's mother. The other  
24 codefendants also knew the organization's structure.  
25

26 Maldonado, the fugitive who the government places at the bottom  
27 (*id.*) lived with Mayorquin, who the government places at the top,  
28  
29

1 with Leydis. According to the complaint and incorporated affidavit  
2 the government filed to start this court case, Ms. Maldonado is  
3 heard discussing 324 grams that she weighed out at Cruz's request.  
4 Maldonado says it's the "yellow" and a little of the "blue."  
5 According to the government, these were code words for types of  
6 fentanyl. *Dkt.1* at 13. This is four times the amount of fentanyl  
7 that the government notes Mr. Torres was arrested with. *Dkt. 193*  
8 at 7.

10 The government asserts that Mr. Torres is at the same level of  
11 culpability as Benegas and Ivan Cruz. *Dkt. 193* at 5. Yet,  
12 according to the government's complaints, both were heard on heard  
13 on the wire supplying fentanyl to the upper-level suppliers. *Dkt.*  
14 1 at 12-13; *Dkt. 1* at 5 (CR20-480-7.) One of them also apparently  
15 recruited another coconspirator. *Dkt. 1* at 12-13. We are not aware  
16 of evidence that Mr. Torres recruited others or supplied drugs to  
17 those above him.

#### 20 CONCLUSION

21 The conclusion of our first sentencing memorandum still applies:  
22 Principles of codefendant disparity should lead this Court to  
23 sentence Mr. Torres to no more than any of his codefendants  
24 receive. Even without that disparity, the Court's concern about  
25 the ravages of fentanyl should be balanced with Mr. Torres'  
26 motivation to engage in this crime, as well as his own sad  
27 history.  
28  
29

Respectfully submitted,

Date: February 24, 2022

/s/

Brian P Berson  
Attorney for Adonis Torres